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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Argentina, Austria, Belgium, Benin, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, Cuba, Czech Republic, Denmark, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Mexico, Monaco, Morocco, Netherlands, Norway, Peru, Poland, Portugal, Romania, San Marino, Senegal, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia: draft resolution

Question of enforced or involuntary disappearances

The General Assembly,

Guided by the purposes and principles set forth in the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and the other relevant international human rights instruments,

Recalling its resolution 33/173 of 20 December 1978 concerning disappeared persons and its previous resolutions on the question of enforced or involuntary disappearances, in particular resolution 55/103 of 4 December 2000,

Recalling also its resolution 47/133 of 18 December 1992 proclaiming the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States,

Deeply concerned, in particular, by the intensification of enforced disappearances, including arrest, detention and abduction, in various regions of the world and by the growing number of reports concerning the harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Emphasizing that impunity with regard to enforced disappearances contributes to the perpetuation of this phenomenon and constitutes one of the obstacles to the elucidation of its manifestations,

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.

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Taking note with interest of the initiatives taken at the national and international levels in order to end impunity,

Welcoming the fact that acts of enforced disappearance, as defined in the Rome Statute of the International Criminal Court,[3] come within the jurisdiction of the Court as crimes against humanity,

Bearing in mind Commission on Human Rights resolution 2002/41 of 23 April 2002,

Convinced that further efforts are needed to promote wider awareness of and respect for the Declaration, and taking note in this regard of the report of the Secretary-General on the question of enforced or involuntary disappearances,[4]

Taking note also of the last report submitted by the Working Group on enforced or involuntary disappearances,[5]

1. *Reaffirms* that any act of enforced disappearance is an offence to human dignity and a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights[1] and reaffirmed and developed in other international instruments in this field, as well as a violation of the rules of international law; and that no state shall practise, permit or tolerate enforced disappearances as proclaimed in the Declaration on the Protection of All Persons from Enforced Disappearances;

2. *Urges* all Governments to take appropriate legislative or other steps to prevent and suppress the practice of enforced disappearances, in keeping with the Declaration, and to take action to that end at the national and regional levels and in cooperation with the United Nations, including through the provision of technical assistance;

3. *Calls upon* Governments to take steps to ensure that, when a state of emergency is introduced, the protection of human rights is ensured, in particular as regards the prevention of enforced disappearances;

4. *Reminds* Governments that impunity with regard to enforced disappearances contributes to the perpetuation of this phenomenon and constitutes one of the obstacles to the elucidation of its manifestations, and in this respect also reminds them of the need to ensure that their competent authorities conduct prompt and impartial inquiries in all circumstances in which there is a reason to believe that an enforced disappearance has occurred in territory under their jurisdiction, and that, if allegations are confirmed, perpetrators should be prosecuted;

5. *Expresses its appreciation* to those Governments that are investigating or developing appropriate mechanisms to investigate any cases of enforced disappearances which are brought to their attention, and urges all the Governments concerned to expand their efforts in this area;

6. *Once again urges* the Governments concerned to take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they may be subjected;

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[3] A/CONF.183/9.
[4] A/57/140.
[5] E/CN.4/2002/79.

7. *Reaffirms* that all persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability to exercise their rights are assured;

8. *Encourages* States, as some have already done, to provide concrete information on measures taken to give effect to the Declaration, as well as obstacles encountered;

9. *Requests* all States to consider the possibility of disseminating the text of the Declaration in their respective national languages and to facilitate its dissemination in local languages;

10. *Notes* the action taken by non-governmental organizations to encourage implementation of the Declaration, and invites them to continue to facilitate its dissemination and to contribute to the work of the Subcommission on the Promotion and Protection of Human Rights of the Commission on Human Rights;

11. *Stresses* the importance of the work of the Working Group and encourages it in the execution of its mandate to continue to promote communication between the families of disappeared persons and the Governments concerned with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertaining whether such information falls under its mandate and contains the required elements;

12. *Invites* the Working Group to continue to seek the views and comments of all concerned, including Member States, in preparing its reports;

13. *Invites* also the Working Group to identify obstacles to the realization of the provisions of the Declaration, to recommend ways of overcoming those obstacles and, in this regard, to continue a dialogue with Governments and relevant intergovernmental and non-governmental organizations;

14. *Encourages* the Working Group to continue to consider the question of impunity, in the light of the relevant provisions of the Declaration and of the final reports submitted by the special rapporteurs[6] appointed by the Subcommission;

15. *Requests* the Working Group to pay the utmost attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned to search for and identify those children;

16. *Appeals* to the Governments concerned, in particular those which have not yet replied to the communications transmitted by the Working Group, to cooperate fully with it and, in particular, to reply promptly to its requests for information so that, while respecting its working methods based on discretion, it may perform its strictly humanitarian role;

17. *Encourages* the Governments concerned to give serious consideration to inviting the Working Group to visit their countries so as to enable the Group to fulfil its mandate even more effectively;

18. *Expresses its profound thanks* to the many Governments that have cooperated with the Working Group and replied to its requests for information and

[6] E/CN.4/Sub.2/1997/8 and E/CN.4/Sub.2/1997/20/Rev.1.

to the Governments that have invited the Group to visit their countries, requests them to give all necessary attention to the recommendations of the Group, and invites them to inform the Group of any action they take on those recommendations;

19. *Calls upon* the Commission on Human Rights to continue to study this question as a matter of priority and to take any steps it may deem necessary to the pursuit of the task of the Working Group and to the follow-up to its recommendations when it considers the report to be submitted by the Group to the Commission at its fifty-seventh session;

20. *Renews its requests* to the Secretary-General to continue to provide the Working Group with all of the facilities it requires to perform its functions, especially for carrying out missions and following them up;

21. *Recalls* Economic and Social Council decision 2001/221 in which the Council endorsed the decision of the Commission on Human Rights to create an intersessional open-ended working group, with the mandate to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance;

22. *Welcomes*, in this regard, the report of the independent expert,[7] which, in accordance with Commission on Human Rights resolution 2001/46,[8] will be presented to the intersessional working group established pursuant to that resolution, at its first session;

23. *Welcomes* the decision of the Commission to convene the intersessional working group before its fifty-ninth session, to prepare, for consideration and adoption by the General Assembly, a draft legally binding normative instrument for the protection of all persons from enforced disappearance,[9] on the basis of the Declaration adopted by the General Assembly in its resolution 47/133, in the light of the work of the independent expert and taking into account, inter alia, the draft international convention on the protection of all persons from enforced disappearance, transmitted by the Subcommission in its resolution 1998/25 of 26 August 1998;

24. *Requests* the Secretary-General to keep it informed of the steps he takes to secure the widespread dissemination and promotion of the Declaration;

25. *Also requests* the Secretary-General to submit to it at its fifty-ninth session a report on the steps taken to implement the present resolution;

26. *Decides* to consider the question of enforced disappearances, in particular the implementation of the Declaration, at its fifty-ninth session, under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

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[7] E/CN.4/2002/71.

[8] See *Official Records of the Economic and Social Council, 2001, Supplement No. 23* (E/2001/23), chap. II, sect. A.

[9] E/CN.4/Sub.2/1998/19, annex.